

IN THE DISTRICT COURT OF THE UNITED STATES
MIDDLE DISTRICT OF PENNSYLVANIA

Michael Miller Petitioner, v. COUNTY OF LANCASTER, ET. AL., Respondents.	CIV. NO.: 1:24-CV-00014-SES (Magistrate Judge Susan E. Schwab)
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**MOTION TO STRIKE RESPONDENT’S DISPOSITIVE MOTION AND
BRIEF (DOC. 16, DOC. 21)**

Petitioner, Michael Miller [“Miller”], moves the Court to strike Respondent, Office of Open Records’s [“OOR”] motion (Doc. 16) and brief (Doc. 21) to dismiss the Petition. (Doc. 1) for the reasons summarized below and set forth in his supporting brief to be filed in accordance with Local Rule 7.5.

1. OOR’s unsworn motion and brief of counsel is untimely filed pursuant to FRCP 12(a).
2. OOR’s unsworn motion and brief of counsel is not allowed because a default was entered for OOR pursuant to FRCP 55.
3. OOR’s unsworn motion and brief of counsel is immaterial and impertinent matter pursuant to FRCP 12(f).
4. OOR’s unsworn motion and brief of counsel is insufficient defense pursuant to FRCP 12(f).

5. OOR's motion and brief is non-compliant with Local Rule 7 and FRCP 7(b) in using a brief as a proxy for a motion to raise a defense not made in the motion.
6. "Statements of counsel in their briefs or argument while enlightening to the Court are not sufficient for purposes of granting a motion to dismiss or summary judgment." *Trinsey v. Pagliaro*, 229 F. Supp. 647 (E.D. Pa. 1964).

WHEREFORE, Miller moves the court to strike OOR's unsworn motion and brief of counsel, together with such and other relief as the court may deem just.

Respectfully Submitted:

/s/ Michael Miller

Michael Miller

108 N. Reading Rd, Ste F, 246

Ephrata, PA 17522

(717) 388-0163

reaganfive@protonmail.com

Date: March 7, 2024

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served by e-filing a true and correct copy of the foregoing document to the following:

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Respectfully Submitted,

/s/Michael Miller
Michael Miller
108 N. Reading Rd., Ste F, 246
Ephrata PA 17522
717-388-0163
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Dated: March 7, 2023

CERTIFICATE OF NON-CONCURRENCE

I hereby certify that I sought the concurrence of Respondent, Office of Open Records, in this motion. Respondent does not concur in the motion.

Respectfully Submitted:

/s/ Michael Miller

Michael Miller

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ORDER

THIS CAUSE having come before the Court upon the motion of Petitioner for an order to strike the motion (Doc. 16) and brief (Doc. 23) filed by Respondent, Office of Open Records.

ORDERED AND ADJUDGED that the Petitioner's motion is granted.

DONE AND ORDERED this ____ day of _____ 2024.

Susan E. Schwab
United States Magistrate Judge